



CITY OF BOSTON

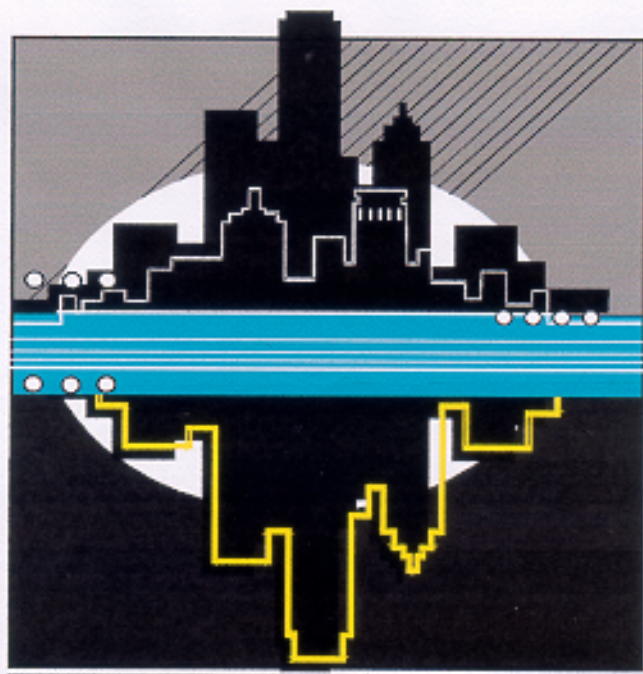
Mayor's Office of Consumer Affairs and Licensing

Boston City Hall, Room 817

Boston, MA 02201

THOMAS M. MENINO
Mayor

PATRICIA A. MALONE
Director



RULES AND **REGULATIONS OF** **THE MAYOR'S** **LICENSING DIVISION**

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THE MAYOR'S LICENSING DIVISION

A. GENERAL

1. The licensee shall keep the license at the location cited thereon, and, shall surrender it to any person designated by the Mayor calling therefore, and shall display it to any person requesting to see it.
2. The licensee, his agents, principles and partners shall be liable to adhere to the terms and conditions of the license.
3. A current list of all employees shall be available upon request of authorized agents of this Division.
4. The Licensee shall allow any person designated by the Mayor including the Boston Police to enter, to inspect, to view any exhibition or show, and to participate in any Amusement.
5. The licensee shall hire at his own expense a police and fire detail as the Mayor shall require.
6. The licensee shall obtain all leases and permits as required to occupy said location lawfully.
7. The licensee shall conform to the applicable provisions of the Boston Zoning Code and State building code, obtaining a Certificate of Use and Occupancy from the Inspection Services Commissioner if so required by these codes.
8. No physical renovations shall be made unless a plan is submitted and approved by the Licensing Division.
9. No increase in the capacity of the licensed premises will be valid unless a petition is fully filed by the licensee and approved by this Division.

B. SAFETY

1. As required by the Fire Commissioner, the licensee shall maintain unobstructed means of egress and means of access, and shall remove combustible materials.
2. The licensee shall not allow any person to obstruct aisles, passageways, landings, or stairways.
3. The Fire Commissioner shall approve the substances and position of the following decorations: seating and other furnishings, interior finishes, 35 mm or larger film, smoking areas, and easily accessible fire fighting apparatus.
4. The licensee shall allow members of the Fire Department, in case of fire to exercise exclusive control and direction of his employees and of the means and apparatus for extinguishing the fire.
5. There shall be no disorder, indecency, prostitution, lewdness or illegal gambling on the licensed premises or any premises connected therein by an interior communication.
6. No device or electronic equipment shall be utilized by any licensed premises for the purpose of signaling employees that agents of the Licensing Division are present.
7. Any police complaints and/or reports presently on file, shall continue in force until disposed of by this Division.

C. ADMISSION POLICIES

1. Any admission fee must be clearly and conspicuously posted. Patrons must be given receipts upon payment of admission fee.

2. No licensee shall make any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sex, age, disability, sexual orientation or ancestry relative to the admission or treatment of any person. All licensees must be in compliance with all relevant provisions of the Ordinance establishing the Boston Human Rights Commission. (Ordinances of 1984, Ch.16 as amended)(City of Boston Ordinances, Title 12, Chapter 16.).

3. The licensee shall not allow a child under 14 to be admitted or have access to the entertainment between 6:00 P.M. and 6:00 A.M. on any day, or during the child's school hours on school days, unless said child is accompanied by an adult.

4. Licensees may not have a door policy for the admission of patrons consisting of VIP cards or give any special privileges to any particular member of the public unless and until such plan has been approved by the Division and the plan as approved is posted at a place on the premises where all members of the public may read it.

5. No licensee will be permitted to require any particular manner of dress for any members of the public unless and until such dress code has been approved by the Division , and the code, as approved, is posted at a place on the premises where all the members of the public may read it.

6. Licensees that offer disc jockey, dancing by patrons, or live instrumental/vocal music to the public, or offer automatic amusement devices, and also feature the service of alcoholic beverages, must restrict admission so that persons under the age of 21 are not allowed on the premises, unless (1) a separate and distinct alcohol-free area is maintained for persons under 21 or (2) the licensee provides advance notification of at least 72 hours to the Licensing Division of the event at which persons under the age of 21 may attend, along with written information approved by the Licensing Division outlining how the licensee will seek to prevent persons under the age of 21 from consuming alcoholic beverages.

D. BUSINESS OPERATION POLICIES

1. Licensees shall not engage in any unfair or deceptive act or practices in the course of his business.
2. The Manager of Record of the Licensed Premises must not be changed until the Division has approved such change.
3. The licensee shall conform to all applicable laws, especially the laws prohibiting certain employment of minors.
4. Any licensee intending to close his place of business must notify the Division in writing before such closing and he shall state in his notice the reason and length of such closing.
5. No licensee shall contract bills for his licensed place under any corporate or trade name other than that under which he is licensed.
6. Licensee shall immediately notify the Division of any proceedings brought against them or any proceedings brought by themselves under the Bankruptcy Laws.
7. Licensee shall immediately notify the Division of any court proceedings which may affect the status of this license.
8. Assignment of the licensees corporate stock, for the purpose of safeguarding the assignee in loans, etc., gives no right to such assignee to conduct the business of the licensee; therefore, licensees must notify the Division immediately when the assignee forecloses under such assignment of stock.

E. ENTERTAINMENT PRACTICES

1. Noise from said entertainment shall be inaudible from any public way or from any abutting premises if maintained within a building, and shall be inaudible at a

distance of 100 yards if maintained outside. All amplifiers shall face the licensed premises and not the street.

2. Upon request, the licensee must make available a seating plan to any potential patron.

3. The view of one spectator shall not be unreasonably obstructed by another spectator.

4. The entertainment and dancing must be confined to the designated place provided for the purpose, and approved by the Division pursuant to letter of conditions.

5. At all times the entire area must be continuously illuminated to the degree of not less than (1) one foot candle (measured thirty (30) inches from the floor) except those portions of the room under furniture (Chapter 82 - Section 416 - Pt. 83 - Acts 1972).

6a. It is forbidden to employ or permit any persons in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals, except with specific approval of the Division upon a petition seeking nude entertainment (See Amendment No. 38 of Section 3-1 of the Boston Zoning Code).

6b. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.

6c. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other persons.

6d. It is forbidden to employ or permit any person to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair, or genitals or any portion thereof.

6e. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts, or to simulate an act or acts of:

- (i) sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law; or
- (ii) touching, caressing, or fondling of the breasts, buttocks, or genitals of another

7. It is forbidden to employ or permit any person in or on the licensed premises to show motion picture films, television-type cassettes, still pictures, or any simulation of any of the acts, prohibited in Rule 6 of these Rules and Regulations.

8. All areas where dancers perform shall be separated by a walkway of at least two (2) feet in width between any stage or platform and areas where drinks are served and consumed.

9. If you are restricting admission for entertainment to adults as a matter of prevailing practice, the premises must be licensed within the Adult Entertainment District. The only exception allowed is if this premises has been restricted to adults continuously since November 26, 1974 or prior thereof.

F. AMUSEMENT RIDES

1. With respect to any mobile amusement ride described above, the licensee shall obtain such liability insurance as the Mayor shall prescribe and a separate license from the Commissioner of Public Safety for each ride.

G. AUTOMATIC AMUSEMENT DEVICES/VIDEO GAMES/GAMES

1. Coin or token operated devices shall be approved by the State Director of Standards.

2. No person keeping or offering for operation or allowing to be kept or offering for operation any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling.

3. A prize may not be offered at said entertainment if chance predominates over skill in awarding the prize.
4. Automatic Amusement devices licensed by the Division shall be so installed on the premises as to be in open view at all times while in operation and shall at times be available for inspection. The licenses issued by the Division shall be at all times posted in plain view as close to the machine as practicable.
5. If the A.A.D. is not owned by the licensee, said licensee must provide the name and address of the owner.
6. If the owner of the A.A.D. splits the amount of money deposited in the coin controlled device with the licensee of said device, the owner must be listed as a partner and co-applicant.
7. The Licensee must comply with the following information to the Division: (1) Name of Vendor; (2) Manufacturer and manufactures' serial number; and (3) Vendor's name and address.
8. The Automatic Amusement Device must have flippers, paddles or other similar features that permit player control of the game.
9. Automatic Amusement Devices for machines containing any one of the banned features listed below will not be knowingly granted or renewed by the Division due to the unduly difficult burden it would place upon licensees, the Division, the Police Department and the public to ensure that machines with these features are not being used for gambling purposes. Machines presently operating with any of these banned features will be subject to a hearing to determine whether the license should be revoked and whether the fee should be refunded on a pro-rated basis.
 - a. The device may not permit players to accumulate more than twenty-six (26) plays.
 - b. The device must not be equipped with cancellation or "knock-off" buttons.

c. The device may not be equipped with any mechanism for adjusting the odds of winning the game.

d. Under no such circumstance should there be a remote control button that can reset the device from another location in other than the device itself.

e. The device may not be capable of returning money to a player in any event or as result of the application of an element of chance.

f. A multiple-coin feature which permits a single player to put into the machines more than the minimum coinage required to start the machine or which permits a player to pay for more than one game at a time is prohibited. Each paid game must cost exactly the same amount for each player and no player may be permitted to change any aspect of the game by paying a different amount than any other player before or during the game.

g. Any game in which an apparatus is not released into motion or set in motion-such motion being under the control of the player. This would eliminate from licensing any game in which the player may win free plays based upon a limited number of one-time selections aimed towards producing a winning combination of symbols.

10. No loitering will be permitted in and around the area of the machines or within or around the area of the premises.

11. If public safety hazards (i.e. illegal, disruptive conduct or excessive noise) result from the utilization of machines on or around a given premises, the Licensing Division reserves the right to hold an administrative hearing regarding the status of said license after due notice to the licensee and reasonable opportunity for a hearing.

12. Skill must predominate over chance in the operation of automatic amusement devices.

13. The device must be equipped with a shutoff button to terminate use of the device.

H. DRUG PREVENTION

1. The Licensee must actively monitor the licensed premises, including a periodic scheduled inspection of the restrooms to prevent the utilization of the restrooms for drug use, sale or dissemination.

2. The licensee must actively monitor secluded sections of the licensed premises to prevent illegal activity, particularly drug activity, from occurring.

3. The licensee must regularly inform all employees of their affirmative duty to report all suspicious activity to management who shall make reports to the Boston Police Departments' liaisons to the Mayor's Office of Consumer Affairs and Licensing or to the Boston Police Department directly. Suspicious activity includes, but is not limited to, the following:

(i) a frequent pattern of public telephone use on the premises by certain patrons or employees

(ii) a frequent pattern of patrons trafficking to certain secluded areas of the premises, such as an isolated booth, or a back room

(iii) a frequent pattern of particular patrons being approached by other patrons with evidence of money, envelopes, known drug paraphernalia or other suspicious items

(iv) the presence on the premises of drug residue, or drug paraphernalia (e.g. vials, cellophane packets, cut straws, needles, roach clips, etc.)

4. The Licensee must actively monitor the immediate area outside the licensed premises to prevent illegal drug traffickers from using the premises as a base for their operations. The licensee must report any suspicious activity to the Boston Police Department's Liaisons to the Mayor's Office of Consumer Affairs and Licensing or to the Boston Police Department directly. Suspicious activity includes, but is not limited to, the following:

- (i) certain patron(s) frequently entering and exiting the premises more often than other patrons
- (ii) certain patron(s) frequently being approached inside or outside the premises with evidence of money, envelopes and/or known drug paraphernalia
- (iii) certain patron(s) frequently interacting with individuals in vehicles parked in front of the premises.

5. Likewise, the licensee should inform all employees that their illegal drug use and any other drug-related activity will not be tolerated, and the licensee should develop employee disciplinary measures to handle such illegal activity.

I. APPLICATION AND LICENSE REVIEW

1. The Licensing Division reserves the right to change or add to the terms and conditions of a license, including times of operation, after notice to the licensee.
2. The Licensee shall indemnify and hold harmless the City of Boston and its employees from any damage it may sustain, or be required to pay, by reason of said entertainment or by reason or any act of neglect of himself or his agents relating to such entertainment, or by reason of any violation of the terms and conditions of its license.
3. The license is subject to suspension, revocation, or forfeiture for breach any of its conditions or regulations, or any law of the Commonwealth.

4. The license is issued and may be revoked or suspended pursuant to the following provisions, as applicable: C.B.C. Ord. 17 § 13.1-13.6; M.G.L. c. 4, 43, 136 and 140; St. 1821 c.110s. 14 and st. 1908 c.494 as amended St. 1913 c.280; and applicable regulations and orders of the Mayor. Licensee must be in complete compliance with all applicable codes, ordinances, statutes, and rules and regulations of this Division.

5. An entertainment license is non-transferable. A licensee shall not sell, trade, gift or in any other fashion transmit a license to any other party.

6. Any applicant who is denied a license may not apply again in the same calendar year unless circumstances can be shown to warrant such reapplication.

CONCLUSION

SEVERABILITY

If any of the provisions of these rules and regulations or their application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of such Rules and Regulations or the application of such other provisions, which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these rules and regulations are severable.

OTHER LAWS

Notwithstanding any of the foregoing Rules and Regulations, no person duly licensed by the Mayor's Licensing Division under M.G.L. Ch. 4, 43, 136 and 140, C.B.C. 426-430A; St. 1821 c. 110 s.14; 1908 ch. 94 s1 and 3 as amended; and any other applicable codes, regulations, ordinances and statutes shall employ, use the services of, or permit upon his licensed premises any employee, entertainer, or other person who by his or her attire or conduct violates any General Laws, Special Act or Ordinance of the City of Boston.



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REGULATORY
STANDARDS AND
PROCEDURES FOR
GRANTING,
CONDITIONING,
DENYING, SUSPENDING
OR REVOKING
ENTERTAINMENT
LICENSES



REGULATORY STANDARDS AND PROCEDURES FOR
GRANTING, CONDITIONING, DENYING, SUSPENDING OR
REVOKING ENTERTAINMENT LICENSES

Pursuant to St. 1821 c. 110 § 14; St. 1885 c. 266 § 6 and 12; St. 1908 c. 494 § 1, as most recently amended by St. 1936 c. 340 St. 1908 c. 494 § 3; St. 1909 c. 486 § 1 and 8; St. 1909c. 486 § 5, as most recently amended by St. 1953 c. 473 § 1; St. 1913 c.280; St. 1948 c. 452 § 17G as appearing in St. 1951 c. 376 § 1; St. 1956 c. 665 § 7; M.G.L. Chapters 4, 43, 136 and 140; C.B.C. Ord. 17 § 13.1-13.6, the Boston Fire Prevention Code; The Boston Zoning Code; the State Building Code; The First and Fourteenth Amendments to the Constitution of the United States; and Article 16 of the Massachusetts Declaration of Rights, as amended by Article 77 to the Constitution of the Commonwealth; the Mayor through the Director of Consumer Affairs and Licensing hereby promulgates the following

§1. In order to deny an entertainment license application the Mayor must possess substantial evidence that the granting the license application at the premises specified :

(i)would lead to or cause an offense under any applicable law, code, ordinance or regulation; or

(ii)would lead to the creation of a nuisance or otherwise endanger the public health safety or order by

(a) unreasonably increasing pedestrian or vehicular traffic in the area in which the premises is located; or

(b) increasing the incidence of illegal or disruptive conduct in the area in which the premises is located; or

(c) unreasonably increasing the level of noise in the area in which the premises is located;

The Mayor, prior to denying a license application shall ascertain that the anticipated harm is significant and that the likelihood of its occurrence is not remote.

§2. No license application shall be deemed complete and no license hearing shall be scheduled by the Mayor until the applicant completes a written application and written questionnaire and provides proof satisfactory to the Mayor that the maintenance of the entertainment at the premises specified in the license application comports with the applicable provisions of the Boston Zoning Code.

§3. The Mayor may issue conditional entertainment licenses, and such conditions may relate to:

- (i) compliance with applicable laws or ordinances; or
- (ii) public safety, health, or order; or
- (iii) steps required to be taken to guard against creation of a nuisance or to insure adequate safety and security for patrons or the affected public

Every original entertainment license which is approved by the Mayor shall include a condition requiring the applicant to secure Certificates of Use and Occupancy and Inspection for the structure in which the license will be exercised, and to secure the approval of the Boston Fire Department as a place of assembly and for the approval of decorations, seating, other furnishings and interior finishes.

The Mayor may impose conditions upon an existing license upon finding, after a hearing preceded by ten days notice to the licensee, that conditions exist which would have justified imposition of the conditions upon the license when granted.

§4. (i) The Mayor may revoke or suspend a license for an exhibition, show, or amusement upon finding, after a hearing preceded by ten days notice to the licensee, that conditions exist which would have justified denial of the original application for such license.

(ii) The Mayor may, after a hearing preceded by ten days notice to the licensee, suspend or revoke a license for an exhibition, show, or amusement on a ground having to do with public morality or decency if there has been a final judicial determination that such exhibition, show, or amusement is obscene, or if there has been a final judicial determination that in the course of maintaining such exhibition show, or amusement the licensee has violated the provisions of section 29A or 29B of Chapter 272 of the Massachusetts General Laws.

(iii) The Mayor may, without any administrative hearing, utilize the standards established in Paragraphs (i) and (ii) above and suspend a license for an exhibition, show, or amusement for not more than three calendar days, provided that no such suspension shall be effective unless and until a judicial proceeding instituted by the Mayor approves the validity of the license suspension. Such approval must take place within one working day of the day when the Mayor so suspends the license under this paragraph. If and when a judicial proceeding approves the license suspension, within one working day of such approval the Mayor shall hold a hearing to determine whether to continue the suspension. Notice of this hearing shall be given to the licensee in writing. If the Mayor after such a hearing decides to continue the suspension, such suspension may be continued for a period not to exceed eleven days from the day when the Mayor first suspended the license pursuant to this paragraph. Suspension of the license beyond this eleven day period may only take place pursuant to Paragraphs (i) and (ii) above.

§5. Boston Police Officers are authorized as agents of the Mayor's Office of Consumer Affairs and Licensing to inspect places of public entertainment licensed or required to be licensed by said office. Such officers may report to the Mayor such information as may be relevant to the standards and procedures outlined in this regulation.